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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,391	01/14/2004	Soo-Young Oh	0465-1520PUS1	1888
2292 7590 01/22/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER PERRIN, JOSEPH L	
			ART UNIT 1792	PAPER NUMBER
			NOTIFICATION DATE 01/22/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/756,391

Applicant(s)

OH ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1792

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

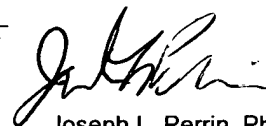
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: \_\_\_\_\_  
Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_



Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit: 1792

Continuation of 3. NOTE: The amendment raises new issues which would require further consideration. Moreover, applicant has not provided good and sufficient reason why the amendment was not presented earlier.

Continuation of 5. Applicant's reply has overcome the following rejection(s): The provisional ODP rejection over 10/751,978. Upon allowance, the provisional ODP rejection over 11/181,801 will be reconsidered in accordance with MPEP 804.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's request for withdrawal of finality has been considered but is not persuasive. Applicant argues that the rejection of dependent claims 4, 8 and 10 over DOBER in view of NUKAGA and OTANI is improper as independent claims 1 & 9, from which the dependent claims depend are rejected over DOBER in view of ALLEN or CHO. Applicant further alleges that this makes the rejection of claims 4, 8 and 10 "impossible to understand". First, the Examiner is taken aback by applicant's position that the rejection is "impossible to understand". On the contrary, the body of the rejection is unambiguously clear and easily understood by one of ordinary skill in the art since the rejection of DOBER in view of NUKAGA or OTANI specifically refers to the previous DOBER rejection which is the rejection of DOBER in view of ALLEN or CHO. Clearly, the omission of the secondary references of the DOBER rejection is nothing more than a typographical omission and has no effect on the merits of the rejection since the previous rejection was specifically noted as being repeated from the above rejection. Note that 1) there is only one DOBER rejection prior to the DOBER in view of NUKAGA or OTANI rejection, and 2) the additional limitations referred in the DOBER in view of NUKAGA or OTANI rejection are only found in NUKAGA and OTANI (i.e. there is nothing additionally relied upon for ALLEN or CHO in the dependent claim rejection). Accordingly, it is not in the best interest of compact prosecution to withdraw finality based on a typographical omission when the record is clear nor is the attempt to withdraw finality based on a typographical error position very well received. The merits of the rejections are unambiguous and deemed proper and the request for withdrawal of finality is denied for at least the reasons indicated above.